**(2007) 10 AHC CK 0004**

**In the Allahabad High Court**

Sanjeev Trading Co. APPELLANT

Vs

Commissioner of Trade Tax RESPONDENT

**Date of Decision :** 25-10-2007

**Acts Referred:**
Central Sales Tax Act, 1956 — Section 6, 6A

**Citation :** (2009) 25 VST 399

**Hon'ble Judges :** Bharati Sapru, J

**Bench :** Single Bench

**Final Decision :** Dismissed

## Judgement

Bharati Sapru, J.—Heard learned Counsel for the revisionist Shri M. M. Rai and Shri B. K. Pandey, learned Counsel for the State.

2. This revision has been filed against an order of the Trade Tax Tribunal dated June 30, 2007. By the impugned order, the Trade Tax Tribunal has disallowed the claim of the revisionist for exemption u/s 6A of the Central Sales Tax Act, 1956.

3. I have heard learned Counsel for both sides at length and I have also perused the material on record.

4. The admitted position which emerges from the record is that the revisionist failed to establish before the Tribunal that the goods which he purchased against form 6R were purchased on behalf of some ex.-U. P. principals. As in the form 6R, which was produced by the revisionist at every stage of the proceedings, the name of the purchaser was written as Sanjeev, treating it as the name of the revisionist himself.

5. The Tribunal has recorded the categorical findings of fact that the revisionist was not able to discharge the burden of proof, which was imposed upon him under the provisions of Section 6A of the Central Sales Tax Act, i.e., to say that he failed to establish on what date that the goods were sent and the means by which they were sent and even the date on which they were purchased from the

 

farmers was not given. Both the revisionists claimed that they were acting as a commission agent on behalf of ex.-U. P. principals, who had instructed them to make purchases by telephonic orders. The so-called commission agent was not able to prove as to when these orders were received telephonically. At a later date, the revisionist produced form 9R in which he has mentioned the names of the ex.-U. P. principals. Prior to that, the names of ex.-U. P. principals were never disclosed. The Tribunal has come to the conclusion that in fact the purchases were made by the revisionist for himself as a purchaser and that has invited incidence and imposition of Central sales tax and therefore, the revisionist was not entitled to exemption u/s 6A of the Act. The honourable apex court has laid down the parameters under which the benefit of Section 6A can be granted to a dealer in the case of Commissioner of Commercial of Sales Tax, Uttar Pradesh and others, Vs. M/s. Bakhtawar Lal Kailash Chand Areti and others, etc. etc.,

6. Having heard learned Counsel for the revisionist as well as learned Counsel for the respondent-State, I am of the view that the argument made by the learned Standing Counsel Shri B. K. Pandey has substance and he is right in saying that the conclusion drawn by the Tribunal is correct. The revisionist was making purchases on his own behalf under form 6 and not on behalf of some ex.-U. P. principal. The learned Standing Counsel has argued that the Tribunal was correct in coming to the conclusion that the dealer was engaged in the business of purchases of the goods himself and was therefore, not entitled to exemption u/s 6A. The naming of the ex.-U. P. principals in form 9R was a mere afterthought and on the basis of such form 9R, the exemption could not have been granted.

7. In view of the above facts and circumstances, I am also of the opinion that the conclusion drawn by the Tribunal is correct. It has recorded a finding of fact that the dealer failed to establish the fact that the purchases of goods were being made by him on behalf of the ex.-U. P. principals and, therefore, the claim for exemption u/s 6A has rightly been disallowed. The natural consequences of denial of exemption u/s 6A will follow u/s 6 of the Central Sales Tax Act, 1956.

8. No question of law arises in this revision. The revision is dismissed.

 